IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO 8375 OF 2006

Shri Bapusaheb Raghunath Patil)
Age : 52 years, C/o.Shri Udajirao)
Kanishtha Adhyapak Mahavidyalaya,)
Gargoti, District Kolhapur)..Petitioner

Versus

1) The State of Maharashtra)
Through Secretary, Education)
Department, Mantralaya, Mumbai)

2) The Dy. Director of Education)
Kolhapur Region, Kolhapur)

3) The Secretary)
Shri Mouni Vidyapeeth Gargoti)

4) The Principal)
Shri Udajirao Kanishtha Adhyapak)
Mahavidyalaya, Gargoti,)
Dist. Kolhapur)..Respondents

Mr.S.M.Railkar for the petitioner.

Mr.P.P.Kakade AGP for the respondent/State.

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 27.06.2007.

Judgment :- (Per : S.B.Mhase,J)

1. Rule, returnable forthwith.

2. The petitioner is a B.A.M.Ed. and he has been appointed with effect from 1.3.2001 as a Lecturer in Junior college of education run by respondent nos.3 & 4. The respondent nos.3 & 4 had submitted a proposal for approval to the respondent no.2. By

letter dated 9.8.2005 the approval was granted by respondent no.2 on certain conditions. The condition no.2 of the said approval is that the petitioner shall obtain M.Ed/M.A. education degree with 55% marks prior to June-2007 at his cost in view of the Government Resolution dated 3.4.2003 based on orders of the NCTE. The challenge in this petition is to this condition. The contentions of the petitioner is that the petitioner has possessed qualification of B.A. M.Ed and the requirement of the 55% marks at M.Ed. or M.A. with education is not necessary in case of the petitioner. The respondents have filed an affidavit and contended as per Government Resolution dated 3.4.2003 and more specifically in view of the paragraph-2 proviso of the said Government Resolution. It is necessary for the petitioner to obtain the M.A. education or M.Ed degree with a 55% of the marks as provided in the Schedule-B of the said Government Resolution and therefore, they contended that the said condition has been imposed by the respondents.

3. The date of appointment of the petitioner is very relevant in this matter. The petitioner has been appointed on 1.3.2001. The said Government Resolution states that those lecturers who were appointed in between 29.12.1998 and 2.9.2001 on the basis of their qualifications as provided under Schedule-A of the directions of the NCTE dated

29.12.1998, their appointments as a Principal and Lecturer shall be regularised. It further states that those who were appointed as lecturers shall obtain the qualifications as stated in the schedule-B of the Government Resolution dated 3.4.2003 at their own cost as per the letter of the NCTE dated 21.10.2002 prior to June-2007. A combined reading of this clause-2 with this proviso is that the NCTE has provided the qualification of teaching staff in the junior college of education as provided in Schedule-A on 29.12.1998 and that the qualification as provided into the Schedule-B has been provided by the NCTE on or about 3.9.2001 and therefore, the provisions have been made that those lecturers who were appointed in between 29.12.1998 and 2.9.2001 in view of the fact that they possessed the qualification as provided in Schedule-A, their services and appointments shall be regularised. However, those who are appointed after 2.9.2001 but prior to the letter of NCTE dated 21.10.2002 they are required to obtain an educational qualification as provided in the schedule-B of the Government Resolution and if they do not possess such educational qualification then the relaxation can be granted by the proviso to obtain the qualification prior to 2.9.2001. We need not go to the proviso of the paragraph-2 of the said Government Resolution in the facts and circumstances of the present case because the appointment of the petitioner is dated

1.3.2001 i.e. prior to 2.9.2001 as provided in paragraph-2 of the said Government Resolution and therefore, the respondent no.2 is under obligation to recognize the services of the petitioner even though the petitioner does not possess the qualification as required under Schedule-B of the said Government Resolution, since he possessed qualification as provided in Schedule-A of the said Government Resolution. The petitioner is a lecturer in general subjects and the essential qualification for the said post as per the NCTE directions is M.Ed./M.A. in education. The petitioner is M.Ed in education and therefore, qualified for a lecturer in general subjects. Since we have observed that the proviso is not applicable in the facts and circumstances of the case, we have to allow this petition. We therefore, quash and set aside the condition no.2 of the letter dated 9.8.2005 and we hold that the services of the petitioner stands approved as stated in the said letter except the condition no.2. Rule made absolute accordingly.

(R.S.Mohite,J) **(S.B.Mhase,J)**